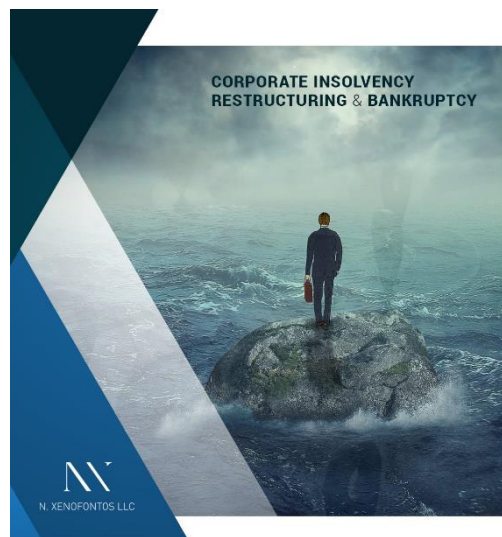




N. XENOFONTOS LLC

Cyprus Companies: The Examinership Model in times of crisis as a shield of protection



Introduction

In 2015 the examinership concept was introduced into the Cyprus Companies' law, Cap.113. Despite a somewhat less-known procedure to the general public and businesses, this framework may be the solution to the survival of businesses currently facing financial effects due to the Covid-19 pandemic.

The Concept

Examinership is a court debt restructuring and corporate rescue procedure for insolvent companies or companies that are on the brink of becoming insolvent. The purpose of examinership is to give a company facing insolvency a period of protection from its creditors, in order to facilitate its survival as a going concern and save viable businesses and jobs.

It is designed for distressed companies but have, however, reasonable prospects of survival.

It must be noted that examinership 'is not designed to help shareholders whose investment has proved to be unsuccessful'. The protection period has been described as a 'temporary breathing space'.

In order for such protection to be afforded to distressed companies, a court application must be filed. For an Examinership Order to be granted, the Court must be convinced that the company has a 'reasonable prospect of survival' that is determined by the competent court.

Such a petition is accompanied by an independent report. During its consideration, the court will look at whether the examiner's proposals are fair and just, whether the company has a reasonable prospect of survival, the salvage of jobs and that any creditors of the company are not placed in a more detrimental position should the company have gone into liquidation.

Should an examinership order be granted, the company remains under the protection of the court for a time period of 4 months, starting from the day that the application for the appointment of an examiner was filed.

This period may be extended for an additional 60 days, if the court is satisfied that such an extension is necessary for the filing of the examiner's report.

Additionally, the court may impose any differentiations to the examiner's proposals or decline any of these. Once the order is granted, it is legally binding upon all involved parties.

Relevance & Opportunity

This concept is especially relevant during these current unique times but should also generally be borne in mind by companies on the verge of insolvency.

This mechanism can be used to safeguard businesses and help them survive. Where companies are facing short-term liquidity problems due to partial or wholly suspension of their operations, businesses should consider applying for an examinership order to be afforded the 4-month court protection, giving them the breathing space, they need.

How we can help

Our in-house licenced insolvency practitioner can assist your business with filing such a petition and provide general advice on all corporate matters.

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